

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

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In the Matter of

Application by SBC Communications, Inc., §  
Southwestern Bell Telephone Company, §  
and Southwestern Bell Communications §  
Services, Inc. d/b/a Southwestern Bell §  
Long Distance for Provision of In-Region, §  
InterLATA services in Oklahoma §

CC Docket No. 97-121

To: The Commission

**OPPOSITION OF THE TEXAS ASSOCIATION OF LONG DISTANCE TELEPHONE  
COMPANIES (TEXALTEL)**

The Texas Association of Long Distance Telephone Companies (TEXALTEL) respectfully offers its comments in this proceeding. TEXALTEL is a trade association of medium and smaller long distance telephone companies and competitive local exchange companies that have significant business interests in Texas. Many of TEXALTEL's members also do business in Oklahoma and have direct interest in this proceeding. TEXALTEL's address is:

Texas Association of Long Distance Telephone Companies  
503 W. 17<sup>th</sup> Street  
Suite 200  
Austin, Texas 78701-1236

**Executive Summary**

Oklahoma does not have competition for local exchange service yet. The request by petitioners for 271 authority is extremely premature and should be rejected at this time. Southwestern Bell Telephone Company (SWBT) is far from implementing the requirements of the Federal Telecommunications Act of 1996 (FTA96) and is still engaging in many anti-competitive practices. SWBT has chafed under regulation and the interconnection requirements of FTA96 and has constantly irritated competitors and regulators with its litigious, uncooperative approach to the requirements of the Act. It is the belief of TEXALTEL that the withholding of interLATA relief is the strongest leverage that regulators have over SWBT and that once granted, with all incentives removed for SWBT to be cooperative with competitors, SWBT will be all but impossible to work with or to regulate. It is ironic that of all of SWBT's states, Oklahoma is one of the ones with

the least competition and is after Ameritec's withdrawal, the first state where re-entry is under consideration.

As competitors take the necessary steps to enter into the local exchange market place, they continue to find more hidden roadblocks and complexities than anyone would have imagined beforehand. It is not surprising, that with over 100 years in developing a monopoly industry, that there are a tremendous number of "customary practices" that impede competition. Issues such as requiring new entrants to negotiate their own agreements to pay 911 fees, requirements to negotiate interconnection agreements with all other ILECs in the state or LATA before providing service, requirements to obtain franchises from cities and SWBT's insistence that regulators impose unnecessary regulation on new entrants are all very time consuming and very expensive hurdles to clear. ILECs have learned to deal with these procedures, and in some cases invented them and are not in any hurry to simplify them. It is TEXALTEL's belief that we have only identified a few of the myriad's of barriers that exist and that regulators and lawmakers will be called on for quite some time yet to remove these barriers as they are uncovered and documented. Thus far, SWBT has been reluctant at best to deal with or to remove those barriers that are under its control.

### **Southwestern Bell Does Not Have Viable Competition**

The Act sets an extremely low standard for defining "competition" and SWBT fails even that. Our understanding of the evidence offered thus far is that there is only one facility based competitor with an interconnection agreement and that competitor is not yet offering residential service. The existence of this agreement prohibits SWBT from seeking interLATA authority based on Section (c)(1)(B) of the Act and that SWBT must wait for interLATA authority until such time as this one competitor provides residential service or until such time as other competitors provide residential service such that it can qualify under Section (c)(1)(A) of the Act.

### **Southwestern Bell Still Behaves Like a Monopolist And Can Be Expected To Continue To Engage In Anti-competitive Activity To Thwart Competition**

Economists tell us that the natural reaction of any monopoly is to act to preserve its market share. Such instincts usually override profit or other incentives. Only when SWBT no longer has monopoly power can it be expected to stop trying to use such monopoly power to thwart competitors.

With so few competitors in Oklahoma, it is not surprising that the state is largely devoid of anti-competitive experiences. However, many experiences regarding Southwestern Bell have occurred in Texas and we will recite some of them for consideration. After all, this is the same Southwestern Bell Corp that is applying for interLATA authority in Oklahoma and there is no reason to expect the corporate attitude toward competition by the same company to differ materially from state to state.

SWBT employees were alleged to have engaged in a slander campaign against a reseller competitor in San Antonio<sup>1</sup>. Among many such acts, SWBT employees were accused of telling the competitor's customers that its offer to provide local telephone service "must be a sham", "that is illegal", "SWB is the only one", "maybe in the future" and "call the police". The complaint details a large number of such incidents and draws the conclusion that nearly all callers to SWBT at that point in time who inquired were being given the same type of falsehoods regarding competitors.

Southwestern Bell has refused to work competitors' orders for resold services whenever abandoned services are in place, causing end users to have to apply to SWBT or to forego service<sup>2</sup>. Southwestern Bell refused to provide any identification of the customer who had previously had service at the premises, refused to take any action to contact the customer to seek authority to disconnect and refused to fill a resale order to provide service to the new customer. However, when the customer contacted SWBT's business office, the order was processed routinely and service provided. Other resellers have complained of similar treatment, indicating this is not just an isolated incident and is one that has remained unresolved for at least a couple months.

Another reseller has maintained repair logs of service outages on resold lines. SWBT has, in spite of a Texas PUC rule which requires filing of restoral of service priorities, refused to provide information as to the order of service restoral and preliminary evidence indicates repairs on resold lines take much longer.

Operation support systems were required by the Act to be available January 1, 1997. It was not until March, 1997 that SWBT would even discuss OSS systems, and pricing quotes that have been circulated indicate that access to such a system requires a commitment to over \$4,000 monthly in recurring charges plus transaction charges as well as a commitment to pay SWBT additional monies to train the competitor's employees on the use of the system. It is believed that these systems are grossly incomplete, not providing any means of ordering unbundled elements or other services.

SWBT has stated its rights and intentions to charge long distance charges to its local customers who place calls to competitors customers in optional EAS areas when SWBT would not charge toll rates for calls to its own customers under the same circumstances. Competition in exchanges where optional EAS is available will not occur until this is resolved.

SWBT has denied at least one reseller the right to resell local exchange service pursuant to arbitrated discounts of 21.6%<sup>3</sup> unless the reseller agreed to include resale of SWBT's intraLATA toll services in said agreement. Such unilateral bundling of services is clearly anti-competitive and in violation of the spirit (and probably the letter) of the Act.

SWBT has issued bills in violation of interconnection agreements and has, in many cases, required untold hours and expense on the part of resellers to obtain

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<sup>1</sup> Docket No. 16068, complaint of US Telco against Southwestern Bell Telephone Company, before the Texas Public Utility Commission

<sup>2</sup> Informal complaint by Valu-Line of Longview against Southwestern Bell at the Texas Public Utility Commission

<sup>3</sup> Texas Public Utility Commission Decision in Docket No 16226, arbitration of AT&T, MCI, MFS, Teleport and ACSI vs. Southwestern Bell Telephone Company pursuant to FTA Section 251 and 252.

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corrections and has, in at least one case, refused to negotiate in good faith to resolve billing disputes.

The actions cited above are evidence of several important points. First, there is ingrained within SWBT's organization and employees a distaste for competitors (which is normal in any industry) and a frightening lack of restraint or ethics as to where the line between aggressive competition and anti-competitive behavior exists. Second, it is clear that there are a huge number of competitive barriers that will have to be resolved before competition has a chance to become sustainable or resilient. TEXALTEL urges the FCC to deny the instant application of SWBT for interLATA authority and to proceed to examine and help resolve the many roadblocks to even handed competition that exist today.

We thank the Commission for its attention and consideration.

Respectfully submitted,

Texas Association of Long Distance Telephone  
Companies (TEXALTEL)

A handwritten signature in cursive script, appearing to read "Charles D. Land".

Charles D. Land, P.E., Executive Director